

**Introduced by Senator Chesbro**

February 24, 2006

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An act to amend Sections 1572 and 1576.2 of, and to repeal Sections 1575.45 and 1575.5 of, the Health and Safety Code, and to amend Sections 14043.46, 14105.395, 14520, and 14573 of, and to repeal and add Section 14521 of, the Welfare and Institutions Code, relating to Medi-Cal.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1755, as introduced, Chesbro. Medi-Cal: adult day health care services.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Health Services and the California Department of Aging pursuant to an interagency agreement.

Existing law requires the interagency agreement between the State Department of Health Services and the California Department of Aging to delegate to the California Department of Aging the responsibility of performing financial reviews, to the extent resources are budgeted for that purpose, and the resolution of audit appeals. Existing law requires the Director of the California Department of Aging to make recommendations regarding licensure to the licensing and certification division in the State Department of Health Services based on specified criteria.

This bill would eliminate the requirement that the interagency agreement delegate the performance of financial reviews and the resolution of audit appeals to the California Department of Aging. The bill would also eliminate the requirement that the California Department of Aging make the recommendations regarding licensure.

Existing law authorizes the State Department of Health Services to immediately take any of specified actions if the department determines that an adult day health care center operating under a provisional license has serious deficiencies that pose a risk to the health and safety of the participants.

This bill would repeal this provision.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits, including adult day health care services.

Existing law, except in certain circumstances, requires an applicant for initial licensure as an adult day health care center, concurrently with the submission of the application, to apply to the State Department of Health Services for eligibility certification as a provider of adult day health care services reimbursable under the Medi-Cal Act. Existing law prohibits the issuance or renewal of a license for an adult day health care center that is not approved as a Medi-Cal provider of adult day health care services.

This bill would repeal this provision.

Existing law requires the license of an applicant that has had its Medi-Cal certification for adult day health care revoked to be rescinded.

This bill, instead, would authorize, rather than require, the rescission of the adult day health care license under this circumstance.

Existing law authorizes the State Department of Health Services to implement a one-year moratorium on the certification and enrollment into the Medi-Cal program of new adult day health care centers on a statewide basis or within a geographic area. Existing law authorizes the director to extend this moratorium, if necessary, to coincide with the implementation date of an adult day health care waiver.

This bill would also authorize the director to extend the moratorium, if necessary, to coincide with the implementation date of an adult day health care state plan amendment.

Existing law authorizes the State Department of Health Services to implement utilization controls under the Medi-Cal program through the establishment of guidelines, protocols, algorithms, or criteria for drugs, medical supplies, durable medical equipment, and enteral formulae, and to publish them in the pharmacy and medical provider manuals. Existing law requires the department to issue providers

written notice of changes under this provision at least 30 days prior to implementation.

This bill would require, instead, that the department issue providers written notice of changes under this provision at least 90 days prior to implementation.

This bill would also authorize the department to implement utilization controls and certification requirements through the establishment of guidelines, protocols, or criteria for the Adult Day Health Care program, and to publish them in the inpatient/outpatient provider manual.

The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria.

This bill would change the name of the Adult Day Health Medi-Cal Law to the Adult Day Health Care Medi-Cal Law.

This bill would require the department to take all appropriate action to obtain approval for a state plan amendment that would conform the Adult Day Health Care (ADHC) program to requirements of federal law, and to include specific program requirements in the state plan amendment. The bill would provide that no single provision of the ADHC state plan amendment shall be implemented unless and until the department has obtained full approval for that amendment from the federal Centers for Medicare and Medicaid Services, and the plan can be implemented by the department.

Existing law requires that the initial Medi-Cal certification for adult day health care providers expire 12 months from the date of issuance. Existing law authorizes the director to specify any date as the expiration date of a renewal of certification based on certain considerations, not to exceed 24 months from the date of issuance of Medi-Cal certification, and authorizes the director to extend certification for periods of not more than 60 days.

This bill would eliminate the authority of the director to specify any date as the expiration date of a renewal of certification. The bill would provide instead that subsequent certification periods shall expire not more than 24 months from the date of issuance, subject to an evaluation by the director prior to the expiration of the 24-month certification.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. It is the intent of the Legislature that this act do  
2 all of the following:

3     (a) Permit the adult day health care program to continue to  
4 operate as an optional Medi-Cal benefit, subject to the approval  
5 by the federal Centers for Medicare and Medicaid Services of a  
6 state plan amendment, while preserving the integrity of the adult  
7 day health care model as it evolves to an enhanced program of  
8 services emphasizing quality, access, and disease management.

9     (b) Establish delivery of appropriate services and levels of  
10 care under a state plan amendment for the adult day health care  
11 program in a cost-effective manner, encouraging participant  
12 independence and supporting caregiver well-being as  
13 components of an integrated long-term care model consistent  
14 with the principles of the decision of the United States Supreme  
15 Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581.

16     (c) Modify state law to reflect the intent to conform adult day  
17 health care program elements to the requirements of the federal  
18 Centers for Medicare and Medicaid Services in a manner that  
19 will permit the program to continue to be eligible for federal  
20 financial participation.

21     SEC. 2. Section 1572 of the Health and Safety Code is  
22 amended to read:

23     1572. (a) The functions and duties of the State Department of  
24 Health Services provided for under this chapter shall be  
25 performed by the California Department of Aging commencing  
26 on the date those functions are transferred from the State  
27 Department of Health Services to the California Department of  
28 Aging. The authority, functions, and responsibility for the  
29 administration of the adult day health care program by the  
30 California Department of Aging and the State Department of  
31 Health Services shall be defined in an interagency agreement  
32 between the two departments that specifies how the departments  
33 will work together.

34     (b) The interagency agreement shall specify that the California  
35 Department of Aging is designated by the department as the  
36 agency responsible for community long-term care programs. At a  
37 minimum, the interagency agreement shall clarify each  
38 department's responsibilities on issues involving licensure and

1 certification of adult day health care providers, payment of adult  
2 day health care claims, prior authorization of services,  
3 promulgation of regulations, and development of adult day health  
4 care Medi-Cal rates. In addition, this agreement shall specify that  
5 the California Department of Aging is responsible for making  
6 recommendations to the department regarding licensure as  
7 specified in subdivision (c). ~~The interagency agreement shall~~  
8 ~~specify that the department shall delegate to the California~~  
9 ~~Department of Aging the responsibility of performing the~~  
10 ~~financial reviews and the resolution of audit appeals that are~~  
11 ~~necessary to ensure program integrity. The agreement shall~~  
12 ~~specify that the financial reviews shall be performed only to the~~  
13 ~~extent that resources are budgeted for this purpose. This~~  
14 ~~agreement shall also include provisions whereby the department~~  
15 ~~and the California Department of Aging shall collaborate in the~~  
16 ~~development and implementation of health programs and~~  
17 ~~services for older persons and functionally impaired adults.~~

18 ~~(e) The Director of the California Department of Aging shall~~  
19 ~~make recommendations regarding licensure to the Licensing and~~  
20 ~~Certification Division in the State Department of Health~~  
21 ~~Services. The recommendation shall be based on all of the~~  
22 ~~following criteria:~~

23 ~~(1) An evaluation of the ability of the applicant to provide~~  
24 ~~adult day health care in accordance with the requirements of this~~  
25 ~~chapter and regulations adopted hereunder.~~

26 ~~(2) Other criteria that the director deems necessary to protect~~  
27 ~~public health and safety.~~

28 SEC. 3. Section 1575.45 of the Health and Safety Code is  
29 repealed.

30 ~~1575.45. (a) If the department determines that the adult day~~  
31 ~~health care center operating under a provisional license has~~  
32 ~~serious deficiencies that pose a risk to the health and safety of the~~  
33 ~~participants, the department may immediately take any of the~~  
34 ~~following actions, including, but not limited to:~~

35 ~~(1) Require a plan of correction.~~

36 ~~(2) Limit participant enrollment.~~

37 ~~(3) Prohibit new participant enrollment.~~

38 ~~(b) When appropriate, the California Department of Aging~~  
39 ~~and the department shall coordinate an action or actions to ensure~~  
40 ~~consistency and uniformity.~~

~~(e) The licensee shall have the right to dispute an action or actions taken pursuant to paragraphs (2) and (3) of subdivision (a). The department shall accept, consider, and resolve disputes filed pursuant to this subdivision by a licensee in a timely manner.~~

~~(d) The director shall ensure that public records accurately reflect the current status of any action or actions taken pursuant to this section, including any resolution of disputes.~~

SEC. 4. Section 1575.5 of the Health and Safety Code is repealed.

~~1575.5. (a) Concurrently with the submission of any application under Section 1575.2, the applicant shall apply to the department for eligibility certification as a provider of adult day health care services reimbursable under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code). No license shall be issued or renewed for an adult day health care center that is not approved as a Medi-Cal provider of adult day health care services.~~

~~(b) (1) This section shall not apply to centers licensed during a moratorium imposed in accordance with Section 14043.46 of the Welfare and Institutions Code. The moratorium shall not prohibit the department from approving a change in ownership, relocation, or increase in capacity for an adult day health care center that meets the conditions in subdivision (c) of Section 14043.46 of the Welfare and Institutions Code.~~

~~(2) This section shall not apply upon the implementation of the adult day health care waiver in accordance with the Welfare and Institutions Code.~~

SEC. 5. Section 1576.2 of the Health and Safety Code is amended to read:

1576.2. (a) Each A license issued or renewed pursuant to this chapter shall not be transferable, and the initial license shall expire 12 months from the date of its issuance. The director shall be given the discretion to approve applications for relicensure for a period of up to 24 months. Application for annual renewal of a license, accompanied by the required fee, shall be filed with the department not less than 30 days prior to the expiration date. Failure to submit a renewal application prior to that date shall result in expiration of the license.

1 (b) A license ~~shall~~ *may* be rescinded for an applicant that has  
2 had its Medi-Cal certification for adult day health care revoked.

3 SEC. 6. Section 14043.46 of the Welfare and Institutions  
4 Code is amended to read:

5 14043.46. (a) Notwithstanding any other provision of law, on  
6 the effective date of the act adding this section, the department  
7 may implement a one-year moratorium on the certification and  
8 enrollment into the Medi-Cal program of new adult day health  
9 care centers on a statewide basis or within a geographic area.

10 (b) The moratorium shall not apply to the following:

11 (1) Programs of All-Inclusive Care for the Elderly (PACE)  
12 established pursuant to Chapter 8.75 (commencing with Section  
13 14590).

14 (2) An organization that currently holds a designation as a  
15 federally qualified health center as defined in Section 1396d(l)(2)  
16 of Title 42 of the United States Code.

17 (3) An organization that currently holds a designation as a  
18 federally qualified rural health clinic, as defined in Section  
19 1396d(l)(1) of Title 42 of the United States Code.

20 (4) An applicant with the physical location of the center in an  
21 unserved area, which is defined as a county having no licensed  
22 and certified adult day health care center within its geographic  
23 boundary.

24 (5) An applicant for licensure and certification that has been  
25 designated by a city and county, ~~which~~ *that*, pursuant to a court  
26 order, is discharging persons currently residing in a city and  
27 county nursing facility to community housing, provided that all  
28 participants enrolled in the applicant's center are former residents  
29 of the city and county nursing facility.

30 (6) An applicant that is requesting expansion or relocation, or  
31 both, that has been Medi-Cal certified as an adult day health care  
32 center for at least four years, *that* is expanding or relocating  
33 within the same county, and that meets one of the following  
34 population-based criteria:

35 (A) The county is ranked number one or two for having the  
36 highest ratio of persons over 65 years of age receiving Medi-Cal  
37 benefits.

38 (B) The county is ranked number one or two for having the  
39 highest ratio of persons over 85 years of age residing in the  
40 county.

1 (C) The county is ranked number one or two for having the  
2 greatest ratio of persons over 65 years of age living in poverty.

3 (7) An applicant for certification that is currently licensed and  
4 located in a county with a population that exceeds 9,000,000 and  
5 meets the following criteria:

6 (A) The applicant has identified a special population of  
7 regional center consumers whose individual program plan calls  
8 for the specialized health and social services that are uniquely  
9 provided within the adult day health care center, in order to  
10 prevent deterioration of the special population's health status.

11 (B) The referring regional center submits a letter to the  
12 Director of Health Services supporting the applicant for  
13 certification as an adult day health care provider for this special  
14 population.

15 (C) The applicant is currently providing services to the special  
16 population as a vendor of the referring regional center.

17 (D) The participants in the center are clients of the referring  
18 regional center and are not residing in a health facility licensed  
19 pursuant to subdivision (c), (d), (g), (h), or (k) of Section 1250 of  
20 the Health and Safety Code.

21 (c) The moratorium shall not prohibit the department from  
22 approving a change of ownership, relocation, or increase in  
23 capacity for an adult day health care center if the following  
24 conditions are met:

25 (1) For an application to change ownership, the adult day  
26 health care center meets all of the following conditions:

27 (A) Has been licensed and certified prior to the effective date  
28 of this section.

29 (B) Has a license in good standing.

30 (C) Has a record of substantial compliance with certification  
31 laws and regulations.

32 (D) Has met all requirements for the change application.

33 (2) For an application to relocate an existing facility, the  
34 relocation center must meet all of the conditions of paragraph (1)  
35 and both of the following conditions:

36 (A) Must be located in the same county as the existing  
37 licensed center.

38 (B) Must be licensed for the same capacity as the existing  
39 licensed center, unless the relocation center is located in an  
40 underserved area, which is defined as a county having 2 percent



1 or fewer Medi-Cal beneficiaries over the age of 65 years using  
2 adult day health care services, based on 2002 calendar year  
3 Medi-Cal utilization data.

4 (3) For an application to increase the capacity of an existing  
5 facility, the center must meet all of the conditions of paragraph  
6 (1) and must be located in an underserved area, which is defined  
7 as a county having 2 percent or fewer Medi-Cal beneficiaries  
8 over the age of 65 years using adult day health care services,  
9 based on 2002 calendar year Medi-Cal utilization data.

10 (d) Following the first 180 days of the moratorium period, the  
11 department may make exceptions to the moratorium for new  
12 adult day health care centers that are located in underserved areas  
13 if the center's application was on file with the department on or  
14 before the effective date of the act adding this section. In order to  
15 apply for this exemption, an applicant or licensee must meet all  
16 of the following criteria:

17 (1) The applicant has control of a facility, either by ownership  
18 or lease agreement, that will house the adult day health care  
19 center, has provided to the department all necessary documents  
20 and fees, and has completed and submitted all required  
21 fingerprinting forms to the department.

22 (2) The physical location of the applicant's or licensee's adult  
23 day health care center is in an underserved area, which is defined  
24 as a county having 2 percent or fewer Medi-Cal beneficiaries  
25 over the age of 65 years using adult day health care services,  
26 based on 2002 calendar year Medi-Cal utilization data.

27 (e) During the period of the moratorium, a licensee or  
28 applicant that meets the criteria for an exemption as defined in  
29 subdivision (d) may submit a written request for an exemption to  
30 the director.

31 (f) If the director determines that a new adult day health care  
32 licensee or applicant meets the exemption criteria, the director  
33 may certify the licensee or applicant, once licensed, for  
34 participation in the Medi-Cal program.

35 (g) The director may extend this moratorium, if necessary, to  
36 coincide with the implementation date of the adult day health  
37 care waiver *or an adult day health care state plan amendment*.

38 (h) The authority granted in this section shall not be  
39 interpreted as a limitation on the authority granted to the  
40 department in any other section.

SEC. 7. Section 14105.395 of the Welfare and Institutions Code is amended to read:

14105.395. (a) The department may implement utilization controls through the establishment of guidelines, protocols, algorithms, or criteria for drugs, medical supplies, durable medical equipment, ~~and or~~ enteral formulae. The department shall publish the guidelines, protocols, algorithms, or criteria in the pharmacy and medical provider manuals.

(b) *The department may implement utilization controls and certification requirements through the establishment of guidelines, protocols, or criteria for the adult day health care program. The department shall publish the guidelines, protocols, or criteria in the inpatient/outpatient provider manual.*

(c) The department shall issue providers written notice of changes pursuant to subdivision (a) at least ~~30~~ 90 days prior to implementation.

~~(e)~~

(d) Changes made pursuant to this section are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law. The department shall consult with interested parties and appropriate stakeholders in implementing this section with respect to all of the following:

(1) Notifying the provider representatives of the proposed change.

(2) ~~Scheduling at least one meeting~~ *meetings* to discuss the change.

(3) Allowing for written input regarding the change.

(4) Providing advance notice on the implementation and effective date of the change.

SEC. 8. Section 14520 of the Welfare and Institutions Code is amended to read:

14520. This chapter shall be known and may be cited as the Adult Day Health *Care* Medi-Cal Law.

SEC. 9. Section 14521 of the Welfare and Institutions Code is repealed.

~~14521. It is the intent of the Legislature in enacting this chapter to establish adult day health care as a Medi-Cal benefit and allow persons eligible to receive the benefits under Chapter 7 (commencing with Section 14000) of this part, and who have medical or psychiatric impairments, to receive adult day health care services. It is the intent of the Legislature in authorizing this Medi-Cal benefit to establish and continue a community-based system of quality day health services which will (1) ensure that elderly persons not be institutionalized prematurely and inappropriately, (2) provide appropriate health and social services designed to maintain elderly persons in their own homes, (3) establish adult day health centers in locations easily accessible to the economically disadvantaged elderly person, and (4) encourage the establishment of rural alternative adult day health care centers which are designed to make adult day health care accessible to impaired Californians living in rural areas.~~

SEC. 10. Section 14521 is added to the Welfare and Institutions Code, to read:

14521. (a) For the purposes of this chapter, the following definitions shall apply:

(1) “ADHC” means adult day health care under the Medi-Cal program.

(2) “ADHC services” means those health and social services provided by the Adult Day Health Care program.

(3) “CMS” means the federal Centers for Medicare and Medicaid Services.

(4) “Individual plan of care” or “IPC” means the plan of care developed by the adult day health care center’s multidisciplinary team that specifies the individual adult day health care services needed by the participant.

(5) “Participant” means a Medi-Cal beneficiary who is receiving adult day health care services.

(b) The department shall take all appropriate action, as required by CMS, to obtain approval for a state plan amendment for the ADHC program option. The approval shall include assurances to CMS that the state shall amend provisions of existing law and the state plan that address the ADHC program to conform to CMS requirements. Program requirements under the amendment shall be consistent with CMS requirements, and shall include, but not be limited to, all of the following:

1 (1) Certification as a provider in the Medi-Cal program shall  
2 be a requirement for an ADHC center to participate in the  
3 Medi-Cal ADHC program. Certification requirements shall be  
4 established by the terms of the state plan amendment and all  
5 subsequent documents developed for the purpose of  
6 implementing the state plan amendment. Certification shall  
7 require prior licensing of the ADHC center.

8 (2) Licensing of ADHC centers shall be consistent with state  
9 licensing laws and regulations and shall be considered separate  
10 and apart from the certification of ADHC centers. Licensing of  
11 an ADHC center shall be a requirement for certification and  
12 participation in the Medi-Cal program as an ADHC provider.

13 (3) Itemization of the current all-inclusive per diem procedure  
14 code into its component services, resulting in individual  
15 reimbursement rates for individual skilled ADHC services that  
16 meet all of the following requirements:

17 (A) Prior authorization may be granted as a single procedure  
18 code for the days of attendance, with individual skilled ADHC  
19 services as specified on the participant's individual plan of care  
20 billed to the Medi-Cal program as separate services without prior  
21 authorization. These separately billed ADHC services shall be  
22 associated with approved days of attendance.

23 (B) (i) Reimbursement, including payment for individual  
24 skilled ADHC services, shall not exceed the maximum daily  
25 ADHC reimbursement per participant. Claims for ADHC  
26 services that exceed the maximum daily ADHC reimbursement  
27 per participant shall be denied.

28 (ii) The implementation of the reimbursement methodology  
29 may provide for flexible billing processes, provided that  
30 payments for ADHC services shall not exceed the maximum  
31 daily ADHC reimbursement per participant when averaged over  
32 a calendar month.

33 (C) The reimbursement for ADHC services, including rate  
34 increases, shall be consistent with similar Medi-Cal services  
35 reimbursement.

36 (D) The department shall conduct regular audits of ADHC  
37 centers to ensure that only services that are actually provided and  
38 that are medically necessary are reimbursed.

39 (4) Claims for individual skilled ADHC services that are not  
40 associated with an approved day of attendance shall be denied.

(5) (A) ADHC services under the state plan amendment shall include all ADHC services included in the all-inclusive per diem Medi-Cal reimbursement rate as of the date that the act adding this section is enacted, to the extent possible. These services shall be specified and defined in the state plan amendment as required by CMS. The department may amend the definitions at any time.

The following services shall be defined:

(i) Unskilled services.

(ii) Skilled services.

(iii) Assessment and transitional services, which shall be available, without prior authorization, for the purpose of providing assessment services prior to initial enrollment in an ADHC center, and to assist individuals transitioning out of an institutional setting. Assessment and transitional services provided by any ADHC provider shall be limited to a maximum of three days per 12 months per participant.

(B) The department shall develop specific medical necessity criteria for the authorization of ADHC services. These criteria shall be specified in the state plan amendment and in any subsequent implementation documents, and shall limit the provision of ADHC services to those Medi-Cal beneficiaries who require medical or remedial services to improve, restore, or maintain the participant's level of physical, mental, or physical and mental functioning.

(6) The department may enter into interagency agreements with the California Department of Aging to administer the ADHC program under the state plan amendment required under this section. Any interagency agreement entered into shall comply with Section 14000.03.

(7) All of the following shall be defined, described, or established in the state plan amendment or in any subsequent implementation document.

(A) The plan, procedures, standards, and protocols for certification, oversight, and monitoring of ADHC centers, which shall include, at a minimum, requirements for the organization and administration of ADHC centers, ADHC center program plans, ADHC center staffing, ADHC center subcontracts and subcontractors, ADHC center program hours, the provision of emergency services at ADHC centers, ADHC center policies and procedures, ADHC center financial reporting and other reporting

1 to the state, ADHC center participant health records, civil rights,  
2 confidentiality, and documentation for services provided, and the  
3 medical necessity for those services.

4 (B) The qualification requirements for all individual persons  
5 providing direct services at the ADHC center.

6 (C) Procedures and standards for participant assessment and  
7 determination of eligibility for ADHC services. This shall  
8 include, but not be limited to, freedom of choice and fair hearing  
9 rights.

10 (D) Procedures, standards, and format for the individual plan  
11 of care.

12 (E) The prior authorization process, including, but not limited  
13 to, medical necessity criteria, procedure codes, and  
14 reimbursement rates for all ADHC services.

15 (F) Any other provisions needed to secure CMS approval of  
16 the ADHC state plan amendment required under this section.

17 (c) Upon the implementation of the ADHC program as  
18 provided for in this section, the terms and conditions of the  
19 ADHC state plan amendment and all subsequent implementation  
20 documents shall control the operation of the ADHC program  
21 under the Medi-Cal program. In the event of a conflict between  
22 the terms and conditions of the ADHC state plan amendment and  
23 any provision of this chapter or any other state law or regulation,  
24 the terms and conditions of the ADHC state plan amendment  
25 shall control.

26 (d) The ADHC state plan amendment shall be implemented  
27 only to the extent that it is approved by CMS and only to the  
28 extent that federal financial participation is available for all  
29 specified ADHC services.

30 (e) No single provision of the ADHC state plan amendment  
31 shall be implemented unless and until the department has  
32 obtained full approval for that amendment from CMS, and the  
33 plan can be implemented by the department.

34 (f) To implement this section, the department may contract  
35 with public or private entities or utilize existing health care  
36 services provider enrollment and payment mechanisms, including  
37 the Medi-Cal program's fiscal intermediary, only if services  
38 provided under this chapter or Chapter 8 (commencing with  
39 Section 14200) are specifically identified and reimbursed in a  
40 manner that appropriately claims federal financial participation.

1 (g) In order to achieve maximum cost savings, the Legislature  
2 hereby determines that an expedited contract process for all  
3 contracts under this section is necessary. Therefore, all contracts  
4 entered into under this section may be on a competitive or  
5 noncompetitive bid basis and shall be exempt from Chapter 2  
6 (commencing with Section 10290) of Part 2 of Division 2 of the  
7 Public Contract Code.

8 (h) Contracts under this section shall be exempt from the  
9 requirements of Article 4 (commencing with Section 19130) of  
10 Chapter 5 of Part 2 of Division 5 of the Government Code.

11 (i) The ADHC services specified in the state plan amendment  
12 shall be available only for those Medi-Cal beneficiaries  
13 authorized according to the eligibility and medical necessity  
14 standards approved by CMS. The department shall make all  
15 reasonable efforts to continue ADHC services for those  
16 participants receiving ADHC services as of the effective date of  
17 the act adding this section. The failure of a participant receiving  
18 ADHC services as of that date to meet the eligibility and medical  
19 necessity standards under the ADHC state plan amendment shall  
20 be subject to the same fair hearing process granted to Medi-Cal  
21 beneficiaries for the discontinuance or denial of other Medi-Cal  
22 covered services. However, it does not create any obligation on  
23 the department to continue providing ADHC services if federal  
24 financial participation is not available.

25 (j) (1) The department may adopt or modify any regulations  
26 that are necessary to implement this section, including licensing  
27 regulations governing ADHC centers, as found in Section 78001  
28 and following of Title 22 of the California Code of Regulations.  
29 The department shall adopt any regulations that are necessary to  
30 conform ADHC licensing standards and requirements to the  
31 certification standards and requirements approved by CMS for  
32 the ADHC state plan amendment.

33 (2) The adoption, amendment, repeal, or readoption of a  
34 regulation authorized by this section is deemed to be necessary  
35 for the immediate preservation of the public peace, health and  
36 safety, or general welfare, for purposes of Sections 11346.1 and  
37 11349.6 of the Government Code, and the department is hereby  
38 exempted from the requirement that it describe specific facts  
39 showing the need for immediate action. For purposes of  
40 subdivision (e) of Section 11346.1 of the Government Code, the

1 120-day period, as applicable to the effective period of an  
2 emergency regulatory action and submission of specified  
3 materials to the Office of Administrative Law, is hereby  
4 extended to 180 days.

5 (3) Prior to filing any emergency regulations with respect to  
6 ADHC services, the department shall seek input from all  
7 interested stakeholders, including, but not limited to, ADHC  
8 providers and the California Association of Adult Day Services.

9 (k) The state plan amendment developed under this section  
10 shall be submitted to the Legislature prior to or in conjunction  
11 with submission to CMS.

12 SEC. 11. Section 14573 of the Welfare and Institutions Code  
13 is amended to read:

14 14573. (a) Initial Medi-Cal certification for adult day health  
15 care ~~providers~~ *centers* shall expire 12 months from the date of  
16 issuance. ~~The director shall specify any date he or she determines~~  
17 ~~is reasonably necessary because of the record of the applicant~~  
18 ~~and to carry out the purposes of this chapter, but not more than~~  
19 ~~24 months from the date of issuance, when renewal of the~~  
20 ~~certification shall expire. The certification may be extended for~~  
21 ~~periods of not more than 60 days if the department determines it~~  
22 ~~to be necessary. Subsequent certification periods shall expire not~~  
23 ~~more than 24 months from the date of issuance, except as~~  
24 ~~specified in subdivision (b).~~

25 (b) *Prior to the expiration of an adult day health care center's*  
26 *24-month certification, the director shall evaluate whether the*  
27 *center meets the criteria specified in this subdivision. The*  
28 *director may approve a 12-month extension to the existing*  
29 *24-month certification if the total certification period does not*  
30 *exceed 36 months and the adult day health center meets all of the*  
31 *following criteria:*

32 (1) *The center has been in operation a minimum of five years,*  
33 *with two consecutive 24-month certification periods within the*  
34 *most recent certification periods.*

35 (2) *The center had no significant health and safety deficiencies*  
36 *identified during the two most recent certification inspections.*

37 (3) *The center provided and implemented an approved plan of*  
38 *correction to remedy any deficiencies cited during the most*  
39 *recent certification inspection.*



1     (4) *The center had no repeat significant deficiencies identified*  
2 *during the most recent certification inspection.*

3     (5) *The center had no complaints substantiated by the*  
4 *department during the most recent certification period.*

5     (c) *Nothing in subdivision (a) or (b) shall be construed to*  
6 *restrict the right of the department to extend the certification of*  
7 *an adult day health care center for periods of not more than 60*  
8 *days if the department determines it to be necessary.*

9     (d) *Before certification renewal, the provider adult day health*  
10 *care center shall submit with the application for renewal a report*  
11 *according to department specifications that includes an analysis*  
12 *of income and expenditures, continued demonstrated community*  
13 *need, services provided, participant statistics and outcome, and a*  
14 *statement of adherence to the adult day health care center's*  
15 *policies and procedures.*

16     ~~(e)~~

17     (e) *Prior to approving renewal of Medi-Cal certification, the*  
18 *California Department of Aging, as specified in the interagency*  
19 *agreement required pursuant to Section 1572 of the Health and*  
20 *Safety Code, shall conduct a financial review and onsite medical*  
21 *and management reviews. The reviews shall be conducted by a*  
22 *team of persons with appropriate technical skills. The*  
23 *management review shall be performed by the entity responsible*  
24 *for directing and coordinating the program, as specified in the*  
25 *interagency agreement entered into pursuant to Section 1572 of*  
26 *the Health and Safety Code.*

27     ~~(d)~~

28     (f) *Where the director determines that the public interests*  
29 *would be served thereby, a public hearing may be held on any*  
30 *renewal application subject to this section. The findings of the*  
31 *departmental program and licensing reviews and the provider's*  
32 *annual evaluation report shall be presented at the hearing.*

33     SEC. 12. *Notwithstanding the rulemaking provisions of*  
34 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
35 *Division 3 of Title 2 of the Government Code, the Director of*  
36 *Health Services may implement all or part of this act by means of*  
37 *provider bulletins or provider manual replacement pages, all*  
38 *facilities letters, or other similar instructions, without taking*  
39 *further regulatory action. Prior to the publication of any*  
40 *document implementing all or part of this act, the Director of*

1 Health Services shall seek input from all interested stakeholders,  
2 including, but not limited to, ADHC providers and the California  
3 Association for Adult Day Services. Actions taken pursuant to  
4 this section to implement, interpret, or make specific this act  
5 shall not be subject to the Administrative Procedure Act (Chapter  
6 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
7 Title 2 of the Government Code or to the review and approval of  
8 the Office of Administrative Law.

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